



## INTERIOR BOARD OF INDIAN APPEALS

Austin Klinekole, Sr. v. Acting Southern Plains Regional Director,  
Bureau of Indian Affairs

41 IBIA 192 (08/31/2005)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ARLINGTON, VA 22203

AUSTIN KLINEKOLE, SR.,	:	Order Dismissing Appeal as Moot
Appellant,	:	
	:	
v.	:	
	:	Docket No. IBIA 03-97-A
ACTING SOUTHERN PLAINS	:	
REGIONAL DIRECTOR, BUREAU	:	
OF INDIAN AFFAIRS,	:	
Appellee.	:	August 31, 2005

This is an appeal from an April 3, 2003, decision of the Acting Southern Plains Regional Director, Bureau of Indian Affairs, concerning the recall of Appellant Austin Klinekole, Sr., as Secretary-Treasurer of the Apache Tribe of Oklahoma. On July 19, 2005, the Board ordered the parties to submit statements as to whether the appeal had become moot.

The Board's order stated in part:

Apache Business Committee members serve for terms of "two (2) years and until a successor is elected and certified," Apache Constitution, Art. V. General elections are to be held at two-year intervals. Id., Art. VII, sec. 1. It appears likely that a general election has taken place since the July 13, 2002, recall election at which Appellant was removed from office.

Under the Board's decisions, an appeal concerning the recall of a tribal official becomes moot if that official's normal term of office has expired and the position formerly held by the official has been filled in a regular tribal election. Where these events have occurred, the appeal is moot unless one of the following facts is shown:

(1) that the [subsequent] election has been determined invalid in a tribal forum; (2) that a challenge to the [subsequent] election is presently pending in a tribal forum; (3) that BIA has declined to recognize the results of the [subsequent] election; or (4) that BIA

has recognized the results of the [subsequent] election, but an appeal from that recognition is presently pending.

Kostzuta v. Southern Plains Regional Director, 35 IBIA 205, 206 (2000).

The Regional Director filed a response to the Board's July 19, 2005, order, stating: "Beverly Mattice was elected as Secretary/Treasurer for the Apache Tribe of Oklahoma on April 10, 2004 and sworn into office on April 15, 2004. Her term in office will end in March 2006. There were no challenges to the election."

Appellant did not respond to the Board's order.

The information furnished by the Regional Director supports a conclusion that this appeal is moot. Appellant has not shown otherwise.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed as moot.

I concur:

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// original signed  
Anita Vogt  
Senior Administrative Judge

\_\_\_\_\_  
// original signed  
Steven K. Linscheid  
Chief Administrative Judge